

Internal Revenue Service

Department of the Treasury

District  
Director

1100 Commerce St., Dallas, TX 75242

Date: JAN 30 1997

Employer ID Number:

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(5) of the Internal Revenue Code.

You were incorporated on [REDACTED] under the laws of [REDACTED] and your stated purposes include the following:

(1) To provide and encourage and extend the influence of [REDACTED] Cattle; to promote the interest of its membership by creating better market opportunities and, so far as possible, cooperate with their general advantage and profit; to promote close relations between the membership and to stimulate great activity among them.

(2) To arrange for public sales when conditions are favorable, to which members may consign their cattle, and to provide for a careful inspection of said cattle that a creditable offering be assured.

(3) To arrange for exhibits and other activities that will be deemed to be in the best interest of the membership.

In Form 1024, page 2, Part II, Activities and Operational Information, you state your activities include the following:

(1) Conduct field days at which speakers are obtained to speak on various aspects of the cattle business such as information on feed lot operations, educational speakers on ultra-sound technology, and information on the mad cow disease. Field days are held annually.

(2) Sponsor various junior activities which benefit junior members and young breeders of cattle and other livestock. Also sponsor other activities to include the [REDACTED] and the [REDACTED] to pay premiums to junior winners of the [REDACTED].

(3) Promote The [REDACTED] breed by sponsoring bull and female consignment sales and by informing its members of opportunities to sell their registered stock. The association conducts a screening process at these consignment sales to insure that the quality of the livestock offered for sale is commensurate with the Associations objective of improving the breed generally and to extend the recognition of the influence of the [REDACTED] Breed in the marketplace.



(4) Sponsor bull and female consignments sales and inform its members of opportunities to sell their registered stock. The Association conducts a screening process at these consignment sales to insure that the quality of the livestock offered for sale is commensurate with the Association's objective of improving the breed generally and to extend the recognition of the the influence of the [redacted] breed in the market place.

Section 501(c)(5) of the Code provides for the exemption from Federal income tax of Labor, agricultural, or horticultural organizations

Section 1.501(c)(5)-1 of the Income Tax Regulations provides that the organizations contemplated by section 501(c)(5) of the Code as entitled to exemption from income taxation are those which (1) have no net earnings inuring to the benefit of any member, and (2) have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Revenue ruling 55-230, 1955-1 C.B. 71, held that an association organized to guard the purity of the breed of Welsh ponies by registering and maintaining records of pure bred Welsh ponies is entitled to exemption from Federal income tax under the provisions of section 501(c)(5) of the Internal Revenue Code as an agricultural organization.

Revenue Ruling 74-195, 1974-1 C.B. 135, held that a nonprofit organization formed to manage, graze and sell its members' cattle is providing a direct business service to its members and does not qualify as an agricultural organization described in section 501(c)(5) of the Code.

Revenue Ruling 66-105, 1966-1 C.B. 145, held that the sale of members' products with the return to them of the sale proceeds, less expenses and reserves, is neither an object nor an activity within the ambit of IRC 501(c)(5) and the regulations thereunder. The principal purpose of the organization was to act as a sales agent for its members and therefore did not meet the requirements of section 1.501(c)(5)-1 of the regulations.

The sale of your members' cattle is the primary activity primary purpose of your organization. Although you conduct educational field days annually and sponsor annual junior activity, over [redacted] % of your revenue comes from the consignment sales proceeds and entry fees. This is projected to remain the same in the coming years.

Your consignment sales and the promotion of the sale of the various ranchers' livestock are similar to the activities and services referred to in Revenue Ruling 66-105 (sales and the promotion of sales of members livestock) and Revenue Ruling 74-195 (manage, graze and sale of its members cattle), which organizations did not qualify as exempt organization under IRC 501(c)(5). Although you purport to guard the purity of the breed like the organization in Revenue Ruling 55-230, unlike that organization, consignment sales are your primary activity. This constitutes inurement to the members and precludes the organization from qualifying as an exempt organization under section 501(c)(5) of the Internal Revenue Code. You are providing a service to your members like the organization in Revenue Ruling 74-195, which is not a 501(c)(5) activity.

Based on the purposes, activities and operations shown in your application

Form 1024, we have concluded that you do not qualify for exemption under section 501(c)(5) of the Code because the activities do not fall within the ambit of the cited sections of the Code and corresponding regulations. Your principal purpose is to act as a sales agent for your members in marketing their livestock. The sale of members' cattle does not better the conditions of those engaged in agricultural pursuits, improve the grade of their products, or develop a higher degree of efficiency in their operations. Therefore the organization does not qualify for exemption from Federal income tax as an organization described in section 501(c)(5) or any other section of the Code.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(5) of the Code and you are required to file income tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions and do not wish to file a written protest, please sign and return Form 6018 as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,



Bobby E. Scott  
District Director

Enclosures:  
Publication 892  
Form 6018